

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date: January 18, 2006
Bulk Item: Yes ☐ No ☒

Division: Growth Management
Department: Building
Staff Contact Person: Dianne Bair, CFM

AGENDA ITEM WORDING:

Public hearing to consider an application submitted by Dr. Tracey M. Baker to appeal the denial of an After-the-Fact building permit application #051-3669 to remove drywall and install cement board in a pre-FIRM ground level building.

ITEM BACKGROUND:

On June 24, 2005, Dr. Baker submitted an After-the-Fact building permit application (#051-3669) to resolve a Stop Work Order placed on his property at 15 Boulder Dr., Saddlebunch Key, by Code Enforcement on August 2003. The application for removal of drywall and installation of cement board was denied by the Growth Management Division, because the pre-FIRM structure had been previously determined to be a substantially improved. Prior to Dr. Baker's purchase of the property on June 23, 2003, his attorney Frank Greenman, requested a letter of determination of the status of the property. In a May 14, 2003, letter issued by Ms. Bair, CFM, Special Projects Administrator, Mr. Greenman was advised that the subject building had been substantially improved without benefit of permits and, although these unlawful improvements were protected by the four-year statute of limitations on code enforcement proceedings, no further permits could be issued unless the property were brought into compliance with all applicable codes. The May 14, 2003, letter of determination was not appealed by the applicant. The applicant also did not appeal the denial of an After-the-Fact building permit application previously submitted by the applicant on January 26, 2004, which was denied for the same reasons as the subject permit.

PREVIOUS RELEVANT BOCC ACTION:

None

CONTRACT/AGREEMENT CHANGES:

N/A

STAFF RECOMMENDATION:

Denial

TOTAL COST: -0-

BUDGETED: Yes _____ No -0-

COST TO COUNTY: -0-

SOURCE OF FUNDS: -0-

REVENUE PRODUCING: Yes No X AMOUNT PER MONTH Year

APPROVED BY: County Atty X OMB/Purchasing N/A Risk Management N/A

DIVISION DIRECTOR APPROVAL:

Timothy J. McGarry, AICP

DOCUMENTATION: Included X

Not Required

DISPOSITION:

AGENDA ITEM #

BOARD OF COUNTY COMMISSION RESOLUTION NO.

A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS **DENYING** A REQUEST BY TRACY M. BAKER TO OVERTURN THE DENIAL OF BUILDING PERMIT 051-3669 BASED ON THE DETERMINATION BY THE MONROE COUNTY GROWTH MANAGEMENT DIVISION THAT THE STRUCTURE HAS PREVIOUSLY BEEN SUBSTANTIALLY IMPROVED WITHOUT MEETING CURRENT REGULATIONS INCLUDING BUILDING CODES AND ELEVATION REQUIREMENTS.

WHEREAS, Tracy M. Baker submitted a building permit application 051-3669 requesting improvements to a pre-FIRM (Flood Insurance Rate Map) ground level building to address a code enforcement "finding of violation" on a building deemed substantially improved without benefits of permit and without meeting current codes; and

WHEREAS, the subject property is located at 15 Boulder Drive, Bay Point, Florida and legally described as Block 7, Lot 8, Bay Point Amended Plat, Saddlebunch Keys PB 3-75; Township 67, Range 28 and having real estate number 00161250-000000; and

WHEREAS, the application filed is a request to appeal the decision by Dianne Bair, CFM, Special Projects Administrator, denying permit application 051-3669 in a letter dated June 30, 2005; and

WHEREAS, the denial for the application 051-3669 was based on a previously written determination in a letter dated May 14, 2003 which was not appealed; and

WHEREAS, Section 9.5-317(a) states: *Generally: No building permit for proposed construction within an area of special flood hazard shall be granted unless the proposed construction is in compliance with the standards set forth in this division; and*

WHEREAS, Section 9.5-317(b)(1)(a.) states: *New construction or substantial improvements of any residential structure shall have the lowest floor for zones AI-30, AE and AH or the bottom of the lowest supporting members for zones V1-30, VE or V elevated at or above the base flood elevation level; and*

WHEREAS, Section 9.5-316.1 states: *except as provided for the elevated portion of a nonconforming residential structure by sec. 9.5-317(a)(10), no structure or manufactured home hereafter shall be located, extended, converted or structurally altered without full compliance with the terms of this division in addition to other applicable regulations of this chapter; and*

WHEREAS, Section 6-18(c) states: *A building permit shall only be issued if the building official finds it consistent with the Florida Building Codes and this chapter and is compliant with chapter 9.5 of this Code, as determined by the Planning Director; and*

WHEREAS, the applicant was informed in letters dated May 14, 2003 and January 24, 2004, that the building had been substantially improved and permits may only be issued if the structure is elevated to or above the required base flood elevation and brought into compliance with all applicable building and development codes; *and*

WHEREAS, Policy 101.8.10 of the Monroe County Comprehensive Plan requires non-conforming structures requiring substantial improvements to comply with all code provisions; *and*

WHEREAS, Policy 217.1.6 of the Monroe County Comprehensive Plan requires enforcement of federal, state and local setback and elevation requirements to promote protection and safety of life and property; *and*

WHEREAS, the following material has been entered into the record and considered by the Board of County Commissioners.

1. An Application for an Administrative Appeal received August 11, 2005 by the Monroe County Planning Department and filed by Franklin D. Greenman, Esq.; and
2. The staff report prepared on October 13, 2005 by K. Dianne Bair, CFM Special Projects Administrator; and
3. A copy of the Monroe County Property Appraiser's Property Record Card, dated 1/27/2004, with a notation that "The SRF has been gutted and is being rebuilt plus an addition. The sale was more or less a land purchase."; and
4. The May 14, 2003 substantial improvement determination, the January 26, 2004 letter of denial and the June 30, 2005 letter of denial letter; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSION OF MONROE COUNTY, FLORIDA, that the preceding Findings of Fact and Conclusions of Law support its decision to **DENY** the Administrative Appeal by Tracy M. Baker and affirm the decision of the Growth Management Division.

PASSED AND ADOPTED By the Board of County Commission of Monroe County, Florida, at a regular meeting held on the 18th day of January 2006.

Mayor Charles "Sonny" McCoy
Mayor Pro Tem Murray Nelson
Commissioner Dixie Spehar
Commissioner George Neugent
Commissioner David P. Rice



TABLE OF CONTENTS

PART A:

Staff Report

Staff Exhibits

property tax card
code enforcement chronology
progressive increase in values
letter dated May 14, 2003
letter dated January 26, 2004

PART B:

Administrative Appeal Application

Surrounding Property Owners

Applicant's Basis for Appeal

Staff Determination being Appealed

PART C:

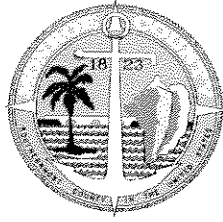
Photo's

Receipt and Fees

PART A:


STAFF REPORT

Growth Management Division
2798 Overseas Hwy. Suite 410
Marathon, FL 33050
Tel: (305) 289-2500
Fax: (305) 295-2536



Board of County Commissioners
Mayor Charles "Sonny" McCoy, Dist. 3
Mayor Pro Tem Murray Nelson, Dist. 5
Comm. Dixie Spehar, Dist. 1
Comm. George Neugent, Dist. 2
Comm. David P. Rice, Dist. 4

MEMORANDUM

TO: Tim McGarry, Director, Growth Management Division
FROM: Dianne Bair, CFM Special Projects Administrator 
DATE: October 13, 2005
RE: Tracy Baker Administrative Appeal

MEETING DATE:

January 18, 2006

REQUEST:

A. Description of Project:

Dr. Baker applied to the Monroe County Planning and Building Department for an after the fact permit to complete a storage area using flood resistant material on existing walls on June 24, 2005. The after the fact application was a result of a Notice of Violation and stop work order placed on the property by Code Enforcement on August 25, 2003. This application was denied because the structure had previously been determined to be a substantial improvement on May 14, 2003. The substantial improvement occurred without benefit of permits and without meeting elevation requirements or current building code requirements. The initial substantial improvement is protected by Judge Richard G. Payne's circuit court ruling on the four-year statute of limitations. In a letter dated May 14, 2003, prior to purchasing the property, the applicant was advised that after the fact and to complete permits may only be issued if the structure was elevated to or above the base flood elevation.

B. Location of Property:

The property is located on Saddlebunch Keys, Block 7, Lot 8 Bay Point Amended Plat, S8, T67, R27 Monroe County, Florida. The Real Estate Number is 00161250.000000. The physical address for the parcel is 15 Boulder Drive. This is a one story ground level

house built in 1958. The structure lies in a split flood zone of VE-12 and AE 10 and the average grade is between 3 to 5 feet above mean sea level.

C. Applicant/Appellant/Appellant Agent:

Applicant/Owner: Tracy M. Baker

Appellant: Tracy M. Baker

Agent: Franklin D. Greenman, Attorney at Law, Gulfside Village, Suite 40, 5800 Overseas Highway, Marathon, FL 33050

D. Precise Decision Being Appealed:

A letter from Dianne Bair, CFM, Special Projects Administrator, Growth Management Division dated June 30, 2005, to Tracy M. Baker denying after the fact application 051-3369 to remove drywall below base flood elevation and replace with flood resistant material in order to complete the storage area.

Section 9.5-31(a) *Generally: No building permit for proposed construction within an area of special flood hazard shall be granted unless the proposed construction is in compliance with the standards set forth in this division.*

The building was substantially improved and the lowest floor is not elevated to or above the required base flood elevation. After-the Fact removal of drywall and installation of cement board is not in compliance with the substantial improvement requirements of the Floodplain Management Ordinance.

Section 9.5-317(b)(1)a. *New construction or substantial improvements of any residential structure shall have the lowest floor for zones A1-30, AE and AH or bottom of the lowest supporting member for zones V1-30, VE or V elevated at or above the base flood elevation level.*

The building was substantially improved and lowest floor is not at or above base flood elevation. A determination that the building is substantially improved was issued in a letter dated May 14, 2003. The letter set forth notice that no after the fact or new permits may be issued unless the building is elevated at or above the base flood elevation and brought into compliance with all applicable building and development codes. This determination was not appealed.

Section 9.5-316.1 *Except as provided for the elevated portion of a nonconforming residential structure by sec. 9.5-317(a)(10), no structure or manufactured home hereafter shall be located, extended, converted or structurally altered without full compliance with the terms of this division in addition to other applicable regulations of this chapter.*

The appellant states "He converted what was previously a substandard apartment into a storage area". This conversion was the subject of a stop work order and a violation was found by the Special Master on May 26, 2005. The conversion is not in full compliance

with the terms of this division and other applicable regulations of this chapter. The building is not elevated and it is unknown whether or not the un-permitted rehabilitation meets the safety standards required by Florida Building Codes.

Section 6-18(c) *A building permit shall only be issued, if the building official finds it consistent with the Florida Building Codes and this chapter and is compliant with chapter 9.5 of this Code, as determined by the planning director.*

The building is substantially improved, not elevated, not in compliance with 9.5.-317, substantial improvements, and questionable as to what liability rests with the County in issuing an “after-the-fact” building permit in a portion of a structure where it is unknown whether or not major un-permitted reconstruction and additions meet the safety standards required by Florida Building Codes and that has not had the benefit of a certificate of occupancy.

E. Date of Decision:

June 30, 2005

F. Additional Information

- 2003 Mr. Franklin D. Greenman, attorney for the applicant requested a determination from the County as to the status of the residence before the applicant purchased the property.
- May 14, 2003 a letter was issued by Dianne Bair, CFM, Special Projects Administrator determining that the residence had been substantially improved. The letter advised that “after the fact and to complete permits may only be issued if the structure is elevated to or above the base flood elevation.”
- May 24, 2003 Mr. Greenman advised Dr. Baker of the County’s position and that code enforcement prosecutions for the un-permitted activity (the substantial improvement) was barred by the statutes of limitations.
- June 23, 2003. Dr. Baker purchased the property.
- August 25, 2003 a “stop work order” was posted on the property for work in progress without a permit. On January 26, 2004 Dr. Baker made an application for an “after the fact” permit 041-306 for “repairs and awning removal, replace damaged drywall, trim and paint and replace 400 square foot of tile”. Application 041-306 was denied under the same basis as this permit 051-3369 being appealed.

G. Applicant/Appellant’s Desired Solution:

To allow the applicant to obtain an after-the-fact permit to complete the storage area using flood resistant dry wall on the pre-existing walls.

Applicant/Appellant's Basis of Appeal:

Appellant's first argument is as follows:

Section 9.5-316.2 allows "Market Value" to be established by the property appraisals submitted by the applicant. In the June 30 letter, the County relies on the Monroe County Property Appraisers valuation for the determination of "market value" before Hurricane Georges at \$69,923.00. In the same letter, reference is made to the private appraisal that the applicant provided for 1997, over a year before Hurricane Georges that established the value of the home at \$325,000. There is no reason given why the lower Property Appraisers value was utilized in determining Market Value in light of the qualified appraisal provided.

Staff response to the applicant/appellant's first argument:

In contradiction to the appellant's statements, the June 30, 2005 denial letter specifically states that the 1997 private appraisal and a 2003 private appraisal were in fact used in conjunction with the property appraiser's information for the 2003 substantial improvement determination. However, the \$325,000.00 value quoted by the appellant is total property value including land and miscellaneous improvements, not just the building value. The \$69,923.00 building is the only value that can be considered in substantial/non-substantial determinations. The May 14, 2003 substantial improvement determination was never appealed and still stands. Therefore the appellant is barred from basing his appeal of the denial of permit 051-3369 on the issue of substantial improvement. As the building had been determined to be substantially improved on May 14, 2003, which was not appealed by the applicant, the County had no other option than to deny permit 051-3369 pursuant to County floodplain regulations.

Appellant's second argument is as follows:

There is no attempt in the June 30 letter to place a value on the construction improvements to the house. The determination that it is a "Substantial Improvement" in excess of 50% of the value of the property has no basis in fact presented by the applicant or the county.

Staff response to the applicant/appellant's second argument:

The June 30 2005 letter denies permit application 051-3369 because the substantial improvement determination was made in 2003 and addressed in a letter dated May 14, 2003, a month prior to the purchase of the property by the current owner. This decision was never appealed. However, the value on the construction improvements to the house is in the June 30, 2005 denial letter on page two (1, (2. and (3.

Appellant's third argument is as follows:

Section 9.5-316.2 allows the County Building Official to consider the cost approach in determining the value of the construction "consistent with local construction costs". The County has made no effort whatsoever to determine the value of the construction. That section goes to state, "Where the cost approach is not accepted by the staff because it appears to be inconsistent with local construction costs, an applicant may request review by an independent third party appraiser duly authorized by the County". The property owner was not afforded the opportunity for third-party review that is authorized by the code.

Staff response to the applicant/appellant third argument:

Contrary to the agent's allegations, both an appraisal submitted by the applicant AND the property appraisers records were utilized and supported the substantial improvement determination of 2003. This was noted in item (3, page two of the June 30, 2005 denial letter. However, the SUBSTANTIAL IMPROVEMENT definition, requires determinations be made **before the improvement is started or if the structure has been damaged and is being repaired, before** the damage occurred. No requests were submitted to the County **before** the improvements or repair began. The improvements leading to the 2003 determination were all "after the fact" and protected by the four-year statute of limitations. This precludes consideration of an appraisal seven years after the improvements began and the rehabilitation is complete.

Appellant's fourth argument is as follows:

The post Hurricane Georges increase in value is attributed entirely to the alleged construction improvements with no consideration whatsoever for the substantial increase in property values that occurred throughout the County.

Staff response to the applicant/appellant fourth argument:

This argument addresses the 2003 substantial improvement determination rather than the 2005 denial of the permit and cannot be a basis of this appeal. However, for informational purposes, the valuations used for the 2003 substantial improvement determination, did consider increase in property values that occur throughout the County. The 1998 building value was \$69,923.00 and the 1999 building value is \$74,746.00. This is a 7% increase. The 1999 building value is \$74,746.00 and the 2000 building is \$79,568.00. This is a 6% increase. The 2000 and 2001 building values remained the same. The 2001 building value is \$79,568.00 and the 2002 building value is \$144,998.00. This is an 82% increase. This progression of property values was considered in the 2003 substantial improvement determination. Additionally, the notation from an on site visit from the property appraiser was significant in the determination that the improvements to this building were not from a

general increase in values that occurred throughout the County. The appraiser's notes on the property tax card state: *"The SFR has been gutted and is being rebuilt plus an addition. The sale was more or less a land purchase."*

Appellant's fifth argument is as follows:

The county has failed to take into consideration that the construction improvements alleged to be a "Substantial Improvement" in excess of 50% of the value of the home was in fact the demolition of a pre-existing below flood residential apartment and its replacement with a dedicated storage area using flood resistant materials. The property owner's activity seems to be more consistent with the policies and purposes of our Code and Comprehensive Plan that is taken into consideration in the June 30 letter.

Staff response to the applicant/appellant fifth argument:

The construction improvements consisting of the demolition of a pre-existing below flood residential apartment and replacement with a dedicated storage area are the result of a stop work order and Notice of Violation which was for work in progress, not protected by the four-year statute of limitations. This work is located in a building that has previously been deemed substantially improved and where the property owner had previously been advised that after-the-fact and to complete permits may only be issued if the structure is elevated to or above the base flood elevation. The demolition of the pre-existing residential apartment and replacement with a dedicated storage area had not begun at the time the building was determined to be substantially improved, which was prior to the applicant purchasing the property. This construction occurred after the applicant purchased the property. It would be more consistent with the policies and purposes of the Code and Comprehensive plan for the converted "storage" area to remain unfinished except for protective paint.

STAFF RECOMMENDATION:

Deny by approving the attached resolution and findings of fact.

PART A:

STAFF EXHIBITS

Property tax card

Code enforcement chronology

Progressive increase in values

Letter dated May 14, 2003

Letter dated January 26, 2004

for

UNIT:

LAND DATA	1	USE FRONT	DEPTH NOTES	# UNIT	TYPE	RATE	DEPTH LOC	SHP	PHYS	CLASS	JUST	VALUE
1	010W	0	0B7 L8	23025.00	SF		1.00 1.60 1.00		0.80			

14 22

EIA 1 L52D7L22D23R16U4R7D4R51U30.

OPF 2 U12152D12R52.D30L58

OPF 3 U4R7D4L7.U23L2

SPE 4 U14014R14D14.

BUILDING CHARACTERISTICS
APPRAISER ID APPRA

APPRAISED ON

1/01/2000 INSPECT DATE

—

NEXT REVIEW

1/01/2003

BUILDING NBR 1
 EFF AGE GROUP 3
 QUALITY GRADE 500
 IMPROVEMENT TYPE R1 PERIMETER
 CONDITION A
 YEAR BUILT 1958
 GRAND FLR AREA 2038
 FUNCT OBSOLES .000
 LOC OBSOLES .000
 NORMAL DEPR 0.2500

SECTION	TYPE	ID	EXTERIOR WALL	TYPE	NBR	STORIES	ROLL	ATLIC	BASEMENT%	FINISHED	FLR AREA	SECTION
FLA	1	05C.B.S.			1.00	1958	0.00	0.00	0.00	0.00	2038	
OPF	2	05C.B.S.			1.00	2001	0.00	0.00	0.00	0.00	624	
OPF	3	00			1.00	2001	0.00	0.00	0.00	0.00	28	
SPF	4	05C.B.S.			1.00	2001	0.00	0.00	0.00	0.00	196	
BLDG #	1	REFINEMENTS										
ROOF TYPE	2											
ROOF COVER	4											
FOUNDATION	4											
INT FINISH	WALL	4 FLOOR	3	4FIXBATH	0	INTERCOM	0	COMPACTOR	0			
TYPE HEAT	1											
SRC HEAT	4											

MISCELLANEOUS IMPROVEMENTS	NBR	TYPE	X	NUMBER	UNITS	TYPE	LENGTH	WIDTH	YEAR	YR	CONST	GRADE	LIFE	RCN	VALUE	DEPR	VALUE	DATE ADDED
PT3	1				420.00	SF	0.0	0.0	1976	1975	2	50						1/23/2004
SW2	1				40.00	SF	40.0	1.0	2001	2000	1	60						
PT2	1				360.00	SF	24.0	15.0	2001	2000	2	50						
FN2	1				600.00	SF	100.0	6.0	1999	1998	2	30						
FN2	1				180.00	SF	45.0	4.0	1999	1998	2	30						
BL2	1				1.00	UT	0.0	0.0	2004	2003	3	20						

THE SFR HAS BEEN GUTTED, ND IS BEING REBUILT PLUS A ADDITION
 . THE SALE WAS MORE OR LESS A LAND PURCHASE.005/039

2001-12-21
 CHANGED THE NEGATIVE LAND ADJUSTMENT FROM .70 TO 1.00 AND HE QS FROM 350 TO 500 FOR THE 2002 TAX
 ROLL. SKI/DMJ

BUILDING PERMITS						
LINE	BLDG	NUMBER	ISSUE	COMPLETE	AMOUNT	DESCRIPTION
1	1	03-2824	7/02/2003	8/22/2003	10000	BOAT ELEVATOR

HISTORY OF TAXABLE VALUES																
TAX YEAR	VM	JUST	LAND	BLDG	MISC/EQIP	JUST	VALUE	ASSD	VALUE	EXEMPT	TAX	VALUE				
11/01/1982	1	24929	0	30567	439	55935	0		25000		30935					
11/01/1983	1	31161	0	29870	439	61470	0		25000		36470					
11/01/1984	1	31161	0	29870	439	61470	0		25000		36470					
11/01/1985	1	31161	0	32074	439	63674	0		25000		38674					
11/01/1986	1	32235	0	32984	439	65658	0		25000		40658					
11/01/1987	1	68499	0	35772	439	104710	0		25000		79710					
11/01/1988	1	51415	0	36081	439	87935	0		25000		62935					
11/01/1989	1	64148	0	42123	439	106710	0		25000		81710					
11/01/1990	1	85423	0	48441	505	134369	0		25000		109369					
11/01/1991	1	85423	0	48441	505	134369	0		25000		109369					
11/01/1992	1	85423	0	48441	505	134369	0		25000		109369					
11/01/1993	1	85423	0	45212	797	131432	0		25000		106432					
11/01/1994	1	85423	0	47178	806	133407	0		25000		108407					
11/01/1995	1	85423	0	54255	898	140576	0	3568	25000		112008					
11/01/1996	1	85423	0	54255	869	140547	0	114	25000		115433					
11/01/1997	1	85423	0	69923	883	156229	0	11584	25000		119645					
11/01/1998	1	85423	0	69923	853	156199	0	9096	25000		122103					

ALTERNATE KEY: 1206822

11/01/1999	1	85423	0	74746	879	161048	0	161048
11/01/2000	1	92676	0	79568	901	173145	0	173145
11/01/2001	1	145058	0	79568	1680	226306	0	226306
11/01/2002	1	299325	0	144998	7108	451431	0	451431
11/01/2003	1	383136	0	182595	6901	572632	0	572632

SALES HISTORY

O.R.	O.R.	SALE DATE	INSTRUMENT	TRAN CODE	QUAL	VAC IMPR	SALE PRICE	APPR VALUE	CHG DATE
BOOK	PAGE	DATE							
1906	0073	6/13/2003	WD	WARRANTY DO	Q	qualified I	699,000	572,632	1/12/2004
1728	0976	9/14/2001	WD	WARRANTY DO	Q	qualified I	625,000	226,306	11/06/2001
1511	1755	4/01/1998	WD	WARRANTY DO	M	multiple I	255,000	0	/ /
792	764	5/01/1979	00	CONVERSIONO	Q	qualified I	57,000	0	/ /

CODE ENFORCEMENT CHRONOLOGY

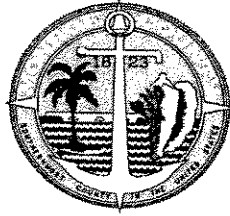
INSPECTIONS/EVENTS DETAIL

DATE	TIME	INSP/EVE TYPE	INSTRUCTIONS
12/1/2005	14:07:03	SM CASE CONTINUED NO ACTION	CONTINUED TO 01/26/06 APPEAL TO PLANNING COMMISSION
11/23/2005	16:49:31	REINSPECTION FOR HEARING	
11/4/2005	16:49:42	REMINDER LETTER SENT	LTR TO ATTY RE: 12/01/05 HEARING
8/18/2005	08:51:24	REINSPECTION FOR HEARING	UNDER APPEAL
7/28/2005	08:39:26	IMPOSITION OF PENALTY	ON JULY 28TH 2005, THE SPECIAL MAGISTRATE IMPOSED THE PENALTY IN THE AMOUNT OF \$250 PER DAY TO BEGIN ON 08/25/05 IF NOT COMPLIANT. THE CASE WAS CONTINUED TO 08/25/05
7/21/2005	14:47:04	REINSPECTION FOR HEARING	NEEDS TO DEMO INTERIOR
6/2/2005	10:54:44	COMMENT CODE	LIEN RECORDED 06/02/05 FOR 100.00 BOOK PAGE
5/26/2005	10:09:43	FINDING OF FACT	FOUND IN VIOLATION \$100 ADMIN COSTS IMP. RESERVED ON FINES. CHARGE OF 9.5-111(A) AMENDED TO 9.5-111(1). COMP. 07/21/05 HEARING 07/28/05
2/24/2005	07:47:15	SM CASE CONTINUED NO ACTION	THE CASE WAS CONTINUED TO 05/26/05
12/2/2004	17:27:03	SM CASE CONTINUED NO ACTION	CONTINUED TO 01/27/05 COMPLIANCE 01/20/05
11/3/2004	14:38:39	CERTIFIED ON HEARING NOTICE	SERVICE GOOD, GREEN CARD RETURNED
10/28/2004	15:22:33	SENT TO LIAISON	SET FOR DEC HEARING
10/28/2004	15:16:34	SENT TO DIRECTOR FOR REVIEW	SET FOR DEC HEARING
11/21/2003	11:39:42	NOV CERTIFIED RETURNED	CERTIFIED RECPT RET'D - GOOD SERVICE 7002 1000 0004 8085 2636
11/5/2003	09:25:38	NOTICE OF VIOLATION	NOTICE OF VIOLATION SENT TO ALTERNATE ADDRESS - C/O BAKER PLASTIC SURGERY 9155 S. DADELAND BLVD., MAIMI, FL 33010
9/24/2003	08:30:24	NOV CERTIFIED RETURNED	CERTIFIED NOV RET'D - "UNCLAIMED"
9/4/2003	10:43:03	NOTICE OF VIOLATION	NOTICE OF VIOLATION SENT TO PROPERTY OWNER
9/4/2003	09:58:42	COMMENT CODE	TC TO DR. BAKER- UNABLE TO MAKE CONTACT ON MORE THAN ONE OCCASION WILL SEND NOV
8/27/2003	10:32:24	STOP WORK ORDER	STOP WORK ORDER POSTED AT SITE
8/27/2003	10:31:44	REINSPECTION	REINSPECTION OF SITE - PHOTOS TAKEN
8/25/2003	13:47:29	CREATE A CASE	VIOLATION RECORDED NORMANR
8/21/2003	13:50:40	INITIAL INSPECTION TYPE	INITIAL INSPECTION-BLACK P/UP WITH INSULATION ON SITE. NO ONE ANSWERED DOOR
8/21/2003	13:47:53	INITIAL INSPECTION TYPE	SITE VISIT - PHOTOS TAKEN

County of Monroe

Growth Management Division

2798 Overseas Highway
Suite 400
Marathon, Florida 33050
Voice: (305) 289-2500
FAX: (305) 289-2536



Board of County Commissioners

Mayor Charles "Sonny" McCoy, Dist. 3
Mayor Pro Tem Murray Nelson, Dist. 5
Comm. Dixie Spehar, Dist. 1
Comm. David P. Rice, Dist. 2
Comm. Murray Nelson, Dist. 5

Progressive Increase in property valuations vs improvement valuations

1998	\$69,923.00	7%
1999	<u>\$74,746.00</u>	
Increase	4,823.00	

1999	\$74,746.00	6%
2000	<u>\$79,568.00</u>	
Increase	4,822	

2000	\$79,568.00	-0-
2001	\$79,568.00	

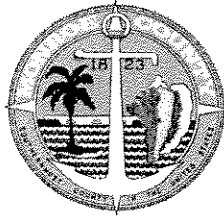
2001	\$79,568.00	82%
2002	<u>\$144,998.00</u>	
Increase	65,430.00	

2002	\$144,998.00	26%
2003	<u>\$182,595.00</u>	
Increase	37,597	

County of Monroe

Growth Management Division

2798 Overseas Highway
Suite 400
Marathon, Florida 33050
Voice: (305) 289-2500
FAX: (305) 289-2536



Board of County Commissioners

Mayor Dixie Spehar, Dist. 1
Mayor Pro Tem Murray Nelson, Dist. 5
Comm. Charles "Sonny" McCoy, Dist. 3
Comm. George Neugent, Dist. 2
Comm. David P. Rice, Dist. 4

May 14, 2003

Frank Greenman Esq.
Gulfside Village, Suite 40
Marathon, FL 33050

Dear Mr. Greenman:

I have reviewed the information you have provided to me in order to determine whether or not the after the fact rehabilitation that occurred on this structure constitutes a substantial or a non substantial improvement. My review included comparing an April 18, 1997 appraisal, prepared by Mike Russo, a state registered REA, to a February 10, 2003 appraisal prepared by Robert J. Tedesco, state registered residential REA. I also compared the values on the property tax card from the year 1997 to the year 2002 using the current formula of property appraiser's depreciated building value plus twenty percent (20%) to determine whether the after the fact improvements exceeded the 50% improvement threshold.

As you know the property tax card appraiser notes say the home has been gutted and rebuilt plus an addition. There were many discrepancies in the documentation I had to review and the 1997 appraisal did not have a breakdown between the building valuation and the land valuation. The 1997 market value was \$325,000 and the 2003 market value is 575,000. This is a 57% increase, but it is inconsequential to the building value review.

The current property record card indicated that a 782 SF enclosed porch had been rehabilitated into floor living area. However this appears to be incorrect because the 1997 appraisal shows this is living area except for 493 square feet, which was an attached garage. There is a 624 square foot screened porch addition and a 165 square foot porch addition. These additions and the interior rehabilitation were done after hurricane Georges and without permits.

County of Monroe

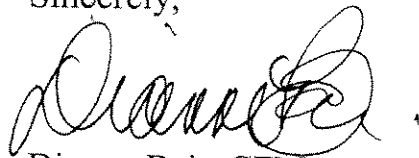
The 1997 depreciated building value was \$48,223.00. Using current methods pursuant to the Monroe County Code adding 20% to this value the total would be \$57,867.00. Forty-nine.nine percent of that value is \$77,098.00 This would be non-substantial because the 2002 depreciated building value is \$72, 286.00. The structure would still have \$4,812.00 before the substantial threshold has been reached. However the additions of the 624 SF screen porch and the 196 SF porch must be considered.

Means Construction Manual calculates an average porch at 24.10 per square foot. 820 SF x \$24.10/SF totals an improvement value of \$19,620.00. This would exceed the non-substantial threshold. Additionally several potential buyers have said that the 701 square foot storage/bath part of the structure is not in very good condition. Some indicated there were some cracked walls. This repair would still need to be figured into the calculations.

This type of after the fact review is difficult at best. However, based upon the information you provided and the Monroe County tax records, it is my opinion that this structure has been substantially improved and after the fact and to complete permits may only be issued if this structure is elevated to or above the base flood elevation.

If you have any questions or additional information, please do not hesitate to contact me at (305) 289-2518.

Sincerely,



Dianne Bair, CFM
Floodplain Administrator

cc: Timothy J. McGarry, Director, Growth Management

County of Monroe

Growth Management Division

2798 Overseas Highway
Suite 400
Marathon, Florida 33050
Voice: (305) 289-2500
FAX: (305) 289-2536



Board of County Commissioners

Mayor Murray Nelson, Dist. 5
Mayor Pro Tem David P. Rice, Dist. 4
Comm. Dixie Spehar, Dist. 1
Comm. George Neugent, Dist. 2
Comm. Charles "Sonny" McCoy, Dist. 3

January 26, 2004

Tracy M. Baker
15 Boulder Drive
Bay Point, FL 33040

RE: permit application 041-306, RE#00161250 000000

Dear Mr. Baker

This letter is to inform you that the structure referenced above built before the current elevation requirements were in effect is nonconforming to the elevation requirements contained in Section 9.5-317 of the Monroe County Code and subject to non substantial improvements requirements, more commonly known as the 50% rule. These ground level structures are known as pre-FIRM (Flood Insurance Rate Map) structures.

Federal law, state law and the Monroe County Floodplain Management Ordinance require that improvements to pre-FIRM ground level structures be limited to less than 50% of the market value of the existing structure without being subject to the elevation requirements. The Monroe County Floodplain Management Ordinance defines market value as the Monroe County Property Appraiser's depreciated value of the structure plus 20%.

I am enclosing a letter to Mr. Frank Greenman, attorney at law, dated May 14, 2003 from me. Mr. Greenman requested a determination as to whether or not the building had been substantially damaged during hurricane Georges. The review of the information he provided resulted in a determination that the structure had been substantially damaged and some work had been done to repair the structure and add to the structure without benefit of a permit. The end result is that "after the fact"

County of Monroe

and "to complete" permits may only be issued if the structure is brought into compliance with the elevation requirement for substantially damaged buildings.

You have the right to appeal this decision. If you choose to do so, please obtain an application form from the Planning Coordinator's office (305) 289-2500. An appeal must be filed within 30 working days of this decision and be accompanied by all non-refundable applicable filing fees.

If you would like to discuss your situation you may contact Dianne Bair at (305) 289-2518

Sincerely,

A handwritten signature in black ink, appearing to read "Dianne Bair", with a stylized flourish at the end.

Dianne Bair
Special Projects Administrator

PART B:

***ADMINISTRATIVE APPEAL
APPLICATION***



**MONROE COUNTY PLANNING DEPARTMENT
APPLICATION FOR ADMINISTRATIVE APPEAL
TO PLANNING COMMISSION**

Please note that the evidence and record which forms the basis for the appeal must be submitted with this application.

If new evidence or the basis for appeal is submitted at the Planning Commission hearing, the Planning Staff will request that the hearing be continued to the next Planning Commission meeting in the area (six weeks) so that the staff has the opportunity to prepare a response to the new evidence.

If the applicant does not submit the basis for the appeal with the application, the Planning Staff will recommend denial of the appeal.

PLEASE COMPLETE ALL OF THE FOLLOWING INFORMATION:

1) DECISION BEING APPEALED: Denial of permit application

2) DATE OF DECISION BEING APPEALED: June 30, 2005

3) APPELLANT:

Name: Tracy M. Baker

Address: 15 Boulder Drive

City/State/Zip: Baypoint, FL 33040

Phone Number: (Home) _____ (Work) _____ (Fax) _____

4) AGENT (If Applicable) :

Name: Franklin D. Greenman, Esq.

Address: 5800 Overseas Highway, Suite 40

City/State/Zip: Marathon, FL 33050

Phone Number: (Home) _____ (Work) (305)743-2351 (Fax) (305)743-6523

APPLICANT MUST SUBMIT A NOTARIZED LETTER AUTHORIZING THE AGENT TO ACT ON HIS BEHALF AND STATING THE AGENT'S NAME, ADDRESS, PHONE AND FAX NUMBER.

5) **OWNER:**

Name: Same as applicant

Address: _____

City/State/Zip: _____

Phone Number: (Home) _____ (Work) _____ (Fax) _____

6) **LEGAL DESCRIPTION OF PROPERTY:** Lot: 8 Block: 7

Subdivision: Bay Point Amended Plat, Saddlebunch Keys, PB3, page 75

If in metes and bounds, attach legal description on separate sheet. Also,

KEY: _____ MM: _____

7) A) **LAND USE DESIGNATION:** _____ IS _____

B) **REAL ESTATE NUMBER(S):** 00161250-000000 Alternate Key #1206822

8) **A COPY OF THE BASIS FOR THE APPEAL IN THE NATURE OF AN INITIAL BRIEF AND ANY EVIDENCE INCLUDING TESTIMONY, AFFIDAVITS AND THE CURRICULUM VITAE OF ANY EXPERT WITNESS THAT WILL BE CALLED MUST BE ATTACHED TO THIS APPLICATION** The brief must at a minimum state all grounds for the appeal, including, but not limited to, the law being appealed and any facts necessary interpretation of those laws. *(Attach additional sheets of paper if necessary.)*

9) **NAMES AND ADDRESSES OF ALL EXPERT WITNESSES THAT YOU PROPOSE TO CALL AT THE HEARING:**

Appraisers, Construction Value Appraisers and Licensed Contractors

10) **Are there any pending codes violations on the property?** Yes ☒ No ☐

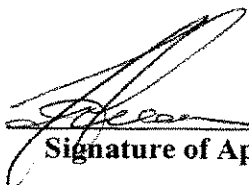
If yes, please explain: 50% rule asserted without factual basis.

- 11) A copy of the document(s), which comprise the administrative decision being appealed.

A copy of the letter from Dianne Bair dated June 30, 2005 is attached hereto.

- 12) TYPED NAME AND ADDRESS MAILING LABELS of all adjacent landowners must accompany this application. Also, please provide the listing of the names, subdivision name, lot and block # and the RE #'s for each address and note those that are adjacent to the property. (Adjacent landowner means an owner of land sharing a boundary with another parcel of land. An intervening road, right-of-way, easement or canal does not destroy the adjacency of the two parcels.) ATTACHED

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge such information is true, complete and accurate.



Signature of Applicant or Agent

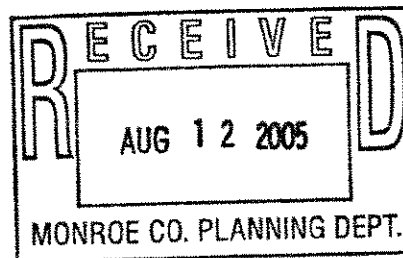
8-11-05

Date

Sworn before me this 11th day
of August, 20 05 A.D.



Notary Public
My Commission Expires



THE FOLLOWING INFORMATION MAY BE REQUIRED WITH YOUR APPLICATION:

Note: If supporting data such as blueprints or surveys are larger than 8 ½ x 14 inches, the applicant shall submit sixteen (16) copies of each.

- 16 Photographs of the subject property.
- Survey or site plan showing all proposed structures or subjects of this appeal.

APPEALS FROM ADMINISTRATIVE ACTIONS MUST BE FILED WITH THE COUNTY ADMINISTRATOR AND WITH THE PLANNING COORDINATOR WITHIN 30 WORKING DAYS OF THE DATE OF THE DECISION.

THE FOLLOWING NON-REFUNDABLE FEES MUST ACCOMPANY ALL APPEAL APPLICATIONS:

- a) \$250.00 Appeal Application Fee
- b) \$3.00 Notification fee per adjacent property owner.
- c) \$245.00 per Newspaper advertisement. (X 3 newspapers).

Your check should be made payable to: "Monroe County Planning Department" and submitted with your application to:

**MONROE COUNTY PLANNING DEPARTMENT
Attn: Planning Commission Coordinator
2798 Overseas Highway, Suite 410
Marathon, FL 33050-2227**

AND

**A copy of the application to:
Tom Willi, Monroe County Administrator
The Gato Building
1100 Simonton Street, Key West, FL 33040**

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, NOTICE IS GIVEN THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH HEARING OR MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE THAT PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. SUCH RECORD TO BE AT THE COST OF THE APPELLANT. ALSO, MONROE COUNTY RESOLUTION #131-1992 REQUIRES THAT "IF A PERSON DECIDES TO APPEAL ANY DECISION OF THE PLANNING COMMISSION, HE SHALL PROVIDE A TRANSCRIPT OF THE HEARING BEFORE THE PLANNING COMMISSION, PREPARED BY A COURT REPORTER AT THE APPLICANT'S EXPENSE, WHICH TRANSCRIPT SHALL BE FILED AS PART OF THE RECORD ON APPEAL WITHIN THE TIME PROVIDED IN SECTION 9.5-521(f), MONROE COUNTY CODE."

Please Note: A transcript made from recordings or other secondary means does not provide a sufficiently accurate record of all the speakers. Therefore, such "secondary" transcripts

may not be accepted as a valid verbatim transcript.

PART B:

***SURROUNDING PROPERTY
OWNERS***

Smooth Feed Sheets™

Use template for 5160®

Jacques C. & Colette Vivien
10 Boulder Drive
Key West, FL 33040

Gail M. Blair
1000 River Beach Dr, #415
Ft. Lauderdale, FL 33315-1171

Gary D. Parker
13 Boulder Drive
Key West, FL 33040

Donald R. & Suzanne Dobeasky
19 Boulder Drive
Key West, FL 33040

Jacques C. & Colette Vivien
10 Boulder Drive
Key West, FL 33040

Gail M. Blair
1000 River Beach Dr, #415
Ft. Lauderdale, FL 33315-1171

Gary D. Parker
13 Boulder Drive
Key West, FL 33040

Donald R. & Suzanne Dobeasky
19 Boulder Drive
Key West, FL 33040

Jacques C. & Colette Vivien
10 Boulder Drive
Key West, FL 33040

Gail M. Blair
1000 River Beach Dr, #415
Ft. Lauderdale, FL 33315-1171

Gary D. Parker
13 Boulder Drive
Key West, FL 33040

Donald R. & Suzanne Dobeasky
19 Boulder Drive
Key West, FL 33040



AVERY®

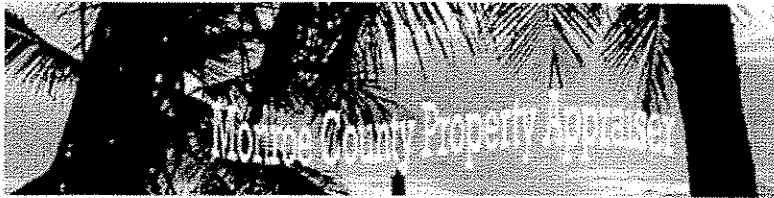
Address Labels

Laser

5160®

[Home](#)[Departments](#)[Exemptions](#)[Online Data Center](#)[Forms](#)

Aug 15, 2005 9:42AM

[Contact the Webmaster](#)**ONLINE DATA CENTER****RECORDS SEARCH****PROPERTY INFORMATION FOR:**

Alternate Key: 1206822
RE Number: 00161250-000000

[Print](#)[Search Again](#)[Email this office about this parcel.](#)**Property Details**[Show Property Map](#)**OWNER OF RECORD**

BAKER TRACY M
15 BOULDER DR
KEY WEST FL 33040

PHYSICAL LOCATION

15 BOULDER DR SADDLEBUNCH KEYS

LEGAL DESCRIPTION

BK 7 LT 8 BAY POINT AMENDED PLAT SADDLEBUNCH KEYS PB3-75 OR580-226 OR691-54Q/C OR727-392 OR792-764
OR1090-883(CSP) OR1511-1755(ND) OR1609-2363(JMH) OR1728-976(CTT) OR1906-73(CMS)

SECTION, TOWNSHIP, RANGE

08 - 67 - 27

MILLAGE GROUP

110C

[Estimate Taxes](#)**PC CODE**

01 - SINGLE FAMILY

Building Details**NUMBER OF BUILDINGS**

1

TOTAL LIVING AREA

2038

NUMBER OF COMMERCIAL BUILDINGS

0

YEAR BUILT

1958

Land Details**LAND USE CODE**

010W - RES WATERFRONT

LAND AREA

23025 SF

Parcel Value History

TAX ROLL YEAR	BUILDING	MISCELLANEOUS IMPROVEMENTS	LAND	JUST	EXEMPTIONS (NOT INCLUDING SENIORS)	TAXABLE
2004	200,629	16,662	460,500	677,791	0	677,791
2003	182,595	6,901	383,136	572,632	0	572,632
2002	144,998	7,108	299,325	451,431	0	451,431

Parcel Sales History

NOTE - OUR RECORDS ARE TYPICALLY TWO TO THREE MONTHS BEHIND FROM THE DATE OF SALE. IF A RECENT SALE DOES

MONROE COUNTY PROPERTY APPRAISER

PROPERTY INFORMATION FOR:

Alternate Key: 1206971
RE Number: 00161400-000000

Property Details

OWNER OF RECORD

VIVIEN JACQUES C & COLETTE
10 BOULDER DR
KEY WEST FL 33040

PHYSICAL LOCATION

10 BOULDER DR SADDLEBUNCH KEYS

LEGAL DESCRIPTION

BK 7 LT 23 BAY POINT AMENDED PLAT
SADDLEBUNCH KEYS PB-3-75 OR458-267/268 OR600-
659D/C OR784-307 OR905-1659 OR1987-1176Q/C(LG)

SECTION, TOWNSHIP, RANGE

08 - 67 - 27

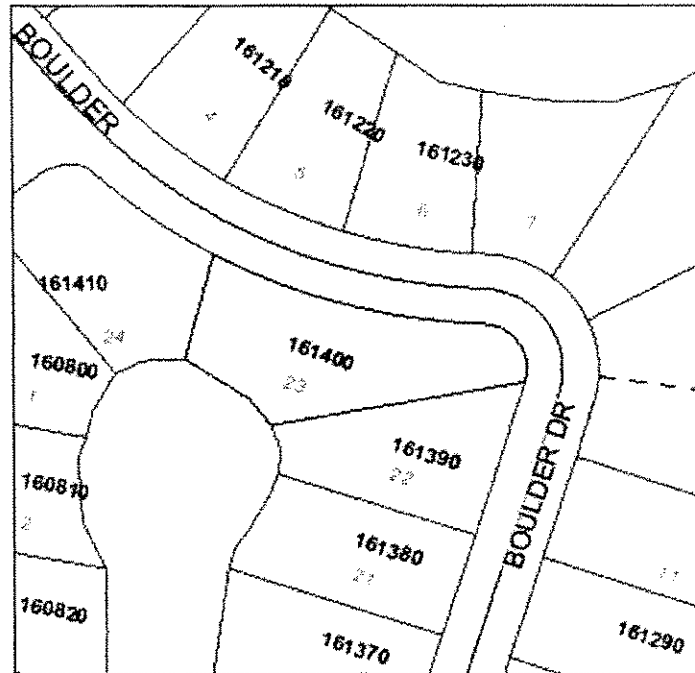
MILLAGE GROUP

110C

PC CODE

01 - SINGLE FAMILY

PROPERTY MAP



Building Details

NUMBER OF BUILDINGS

1

TOTAL LIVING AREA

960

NUMBER OF COMMERCIAL BUILDINGS

0

YEAR BUILT

1979

Land Details

LAND USE CODE

010C - RESIDENTIAL CANAL

LAND AREA

14600 SF

Parcel Value History

<u>TAX ROLL YEAR</u>	<u>BUILDING</u>	<u>MISCELLANEOUS IMPROVEMENTS</u>	<u>LAND</u>	<u>JUST</u>	<u>EXEMPTIONS (NOT INCLUDING SENIORS)</u>	<u>TAXABLE</u>
2004	125,740	2,492	219,000	347,232	25,000	128,019
2003	125,740	2,545	102,200	230,485	25,000	125,166
2002	153,508	2,610	80,300	236,418	25,000	121,647

Parcel Sales History

NOTE - OUR RECORDS ARE TYPICALLY TWO TO THREE MONTHS BEHIND FROM THE DATE OF SALE. IF A RECENT SALE DOES NOT SHOW UP PLEASE GIVE OUR OFFICE TIME TO PROCESS IT.

<u>SALE DATE</u>	<u>OFFICIAL RECORDS BOOK/PAGE</u>	<u>PRICE</u>	<u>INSTRUMENT</u>
03/1984	905/1659	100000	WD
03/1979	784/307	13500	00

MONROE COUNTY PROPERTY APPRAISER

PROPERTY INFORMATION FOR:

Alternate Key: 1206962
RE Number: 00161390-000000

Property Details

OWNER OF RECORD

BLAIR GAIL M
1000 RIVER REACH DR #415
FT LAUDERDALE FL 33315-1171

PHYSICAL LOCATION

SADDLEBUNCH KEYS

LEGAL DESCRIPTION

BK 7 LT 22 BAY POINT AMENDED PLAT
SADDLEBUNCH KEYS PB3-75 OR450-663/64 OR784-
1360/61 (UNR D/C ON FILE-BLAIR ROBERT JAMES)
CMS

SECTION, TOWNSHIP, RANGE

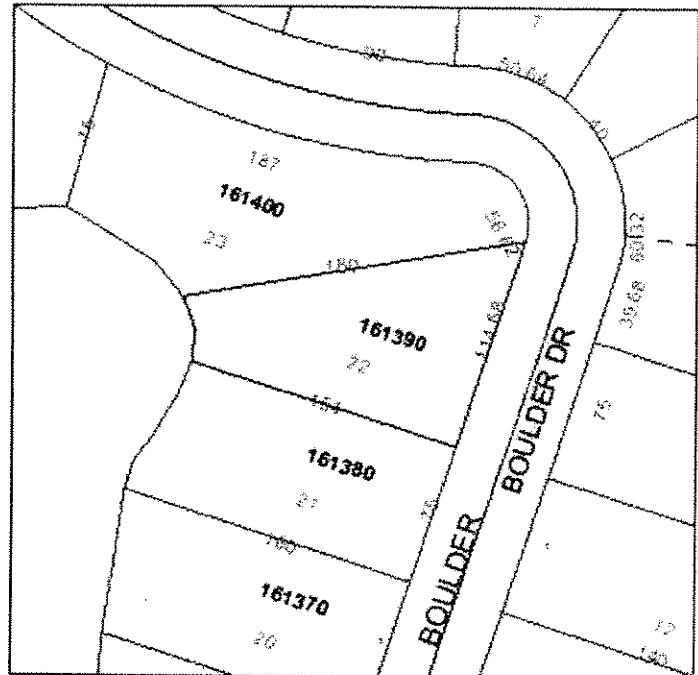
08 - 67 - 27

MILLAGE GROUP

110C

PC CODE

00 - VACANT RESIDENTIAL

PROPERTY MAP

Land Details

LAND USE CODE

M10C - RESIDENTIAL CANAL

LAND AREA

12295 SF

Parcel Value History

TAX ROLL YEAR	BUILDING	MISCELLANEOUS IMPROVEMENTS	LAND	JUST	EXEMPTIONS (NOT INCLUDING SENIORS)	TAXABLE
2004	0	0	122,950	122,950	0	122,950
2003	0	0	73,770	73,770	0	73,770
2002	0	0	49,180	49,180	0	49,180

Parcel Sales History

NOTE - OUR RECORDS ARE TYPICALLY TWO TO THREE MONTHS BEHIND FROM THE DATE OF SALE. IF A RECENT SALE DOES NOT SHOW UP PLEASE GIVE OUR OFFICE TIME TO PROCESS IT.

SALE DATE	OFFICIAL RECORDS BOOK/PAGE	PRICE	INSTRUMENT
03/1979	784/1360	12500	00

MONROE COUNTY PROPERTY APPRAISER

PROPERTY INFORMATION FOR:

Alternate Key: 1206814
RE Number: 00161240-000000

Property Details

OWNER OF RECORD

PARKER GARY D
13 BOULDER DR
KEY WEST FL 33040

PHYSICAL LOCATION

13 BOULDER DR SADDLEBUNCH KEY

LEGAL DESCRIPTION

BK 7 LT 7 BAY POINT AMENDED PLAT PB3-75
SADDLEBUNCH KEYS OR580-226 OR691-54-Q/C
OR1090-883(CSP) OR1511-1755(ND) OR1565-366(CW)
OR1754-1640(CTT) OR1759-985/86QC/MR(JMH)

SECTION, TOWNSHIP, RANGE

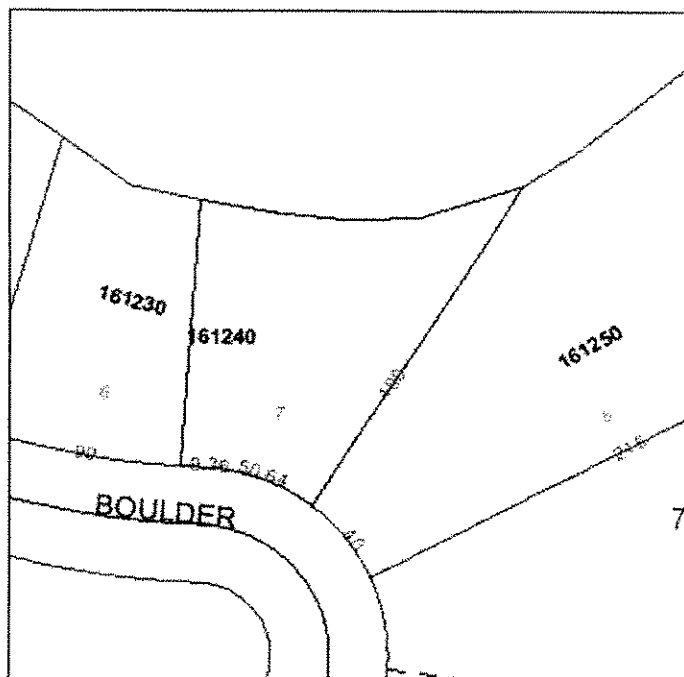
08 - 67 - 27

MILLAGE GROUP

110C

PC CODE

01 - SINGLE FAMILY

PROPERTY MAP

Building Details

NUMBER OF BUILDINGS

1

TOTAL LIVING AREA

1686

NUMBER OF COMMERCIAL BUILDINGS

0

YEAR BUILT

2001

Land Details

LAND USE CODE

010W - RES WATERFRONT

LAND AREA

13888 SF

Parcel Value History

<u>TAX ROLL YEAR</u>	<u>BUILDING</u>	<u>MISCELLANEOUS IMPROVEMENTS</u>	<u>LAND</u>	<u>JUST</u>	<u>EXEMPTIONS (NOT INCLUDING SENIORS)</u>	<u>TAXABLE</u>
2004	233,856	12,492	347,200	593,548	25,000	410,473
2003	233,856	12,954	180,544	427,354	25,000	402,354
2002	207,880	7,604	76,384	291,868	0	291,868

Parcel Sales History

NOTE - OUR RECORDS ARE TYPICALLY TWO TO THREE MONTHS BEHIND FROM THE DATE OF SALE. IF A RECENT SALE DOES NOT SHOW UP PLEASE GIVE OUR OFFICE TIME TO PROCESS IT.

<u>SALE DATE</u>	<u>OFFICIAL RECORDS BOOK/PAGE</u>	<u>PRICE</u>	<u>INSTRUMENT</u>
01/2002	1754/1640	550000	WD
03/1999	1565/366	80000	WD
04/1998	1511/1755	1	WD

MONROE COUNTY PROPERTY APPRAISER

PROPERTY INFORMATION FOR:

Alternate Key: 1206849
RE Number: 00161270-000000

Property Details

OWNER OF RECORD

DOBEASKY DONALD R AND SUZANNE
19 BOULDER DR
KEY WEST FL 33040

PHYSICAL LOCATION

19 BOULDER DR SADDLEBUNCH KEY

LEGAL DESCRIPTION

BK 7 LOTS 9 & 10 BAY POINT AMENDED PLAT PB3-75 SADDLE BUNCH KEYS OR103-284/285 OR471-659 OR654-686 OR754-673 OR905-1361D/C OR908-976D/C OR1046-605 OR1154-2435 OR1524-1090R/S OR2

SECTION, TOWNSHIP, RANGE

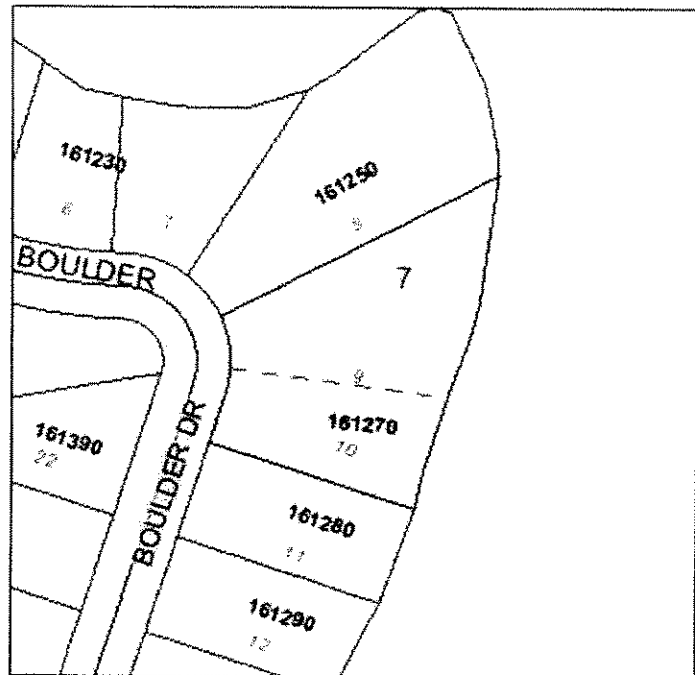
08 - 67 - 27

MILLAGE GROUP

110C

PC CODE

01 - SINGLE FAMILY

PROPERTY MAP

Building Details

NUMBER OF BUILDINGS

1

TOTAL LIVING AREA

1828

NUMBER OF COMMERCIAL BUILDINGS

0

YEAR BUILT

1958

Land Details

LAND USE CODE

010W - RES WATERFRONT

M10W - RES WATERFRONT

LAND AREA

12594 SF

14988 SF

Parcel Value History

<u>TAX ROLL YEAR</u>	<u>BUILDING</u>	<u>MISCELLANEOUS IMPROVEMENTS</u>	<u>LAND</u>	<u>JUST</u>	<u>EXEMPTIONS (NOT INCLUDING SENIORS)</u>	<u>TAXABLE</u>
2004	134,620	7,186	479,718	621,524	0	621,524
2003	134,620	7,454	298,614	440,688	0	440,688
2002	104,696	7,712	261,144	373,552	0	373,552

Parcel Sales History

NOTE - OUR RECORDS ARE TYPICALLY TWO TO THREE MONTHS BEHIND FROM THE DATE OF SALE. IF A RECENT SALE DOES NOT SHOW UP PLEASE GIVE OUR OFFICE TIME TO PROCESS IT.

<u>SALE DATE</u>	<u>OFFICIAL RECORDS BOOK/PAGE</u>	<u>PRICE</u>	<u>INSTRUMENT</u>
06/1998	1524/1090	360000	WD
12/1990	1154/2435	215000	WD
02/1971	471/659	17000	00

PART B:

APPLICANT'S BASIS FOR APPEAL

The Appellant, Dr. Tracy Baker, removed a below foot area kitchen and interior partition walls, and a bathroom, and porch. He converted what was previously a substandard apartment into a storage area. He replaced the damaged original flooring with flood resistant tile on the floor but failed to use flood resistant dry wall. The demolition of this sum said apartment, and its conversion into a storage area was done without benefit of a permit. The purpose of this appeal is to allow him to obtain an after-the-fact permit to complete the storage area using flood resistant dry wall on the pre-existing walls. . It is uncontroverted that the removal of the kitchen, porch and bathroom, flooring, and partition walls greatly exceed in value the replacement of flood resistant floor tiles and wallboard and the conversion of this former living area into a storage area

The “substantial improvement” criteria found in section 9.5–317 are inappropriately and incorrectly applied in the June 30 letter. The effect of the letter is to require the destruction of substantial portion of the property owner’s residence. More significantly, the property owner was not given an opportunity to present any information or evidence that would alter the conclusions based on incorrect assumptions found in the June 30 letter. The private appraisals provided were disregarded because they did not match the conclusions predetermined in the letter. Specifically;

1. Section 9.5-316.2 allows “Market Value” to be established by property appraisals submitted by the applicant. In the June 30 letter, the County relies on the Monroe County Property Appraisers valuation for the determination of “market value” before hurricane George at \$69,923. In that same letter reference is made to the private appraisal that the applicant provided for 1997, over a year before

Hurricane Georges, that established the value of the home at \$325,000. There is no reason given why the lower Property Appraisers value was utilized in determining Market Value in light of the qualified appraisal provided.

2. There is no attempt in the June 30 letter to place a value on the construction improvements to the house. The determination that it is a "Substantial Improvement" in excess of 50% of the value of the property has no basis in fact presented by the applicant or the county.
3. Section 9.5-316.2 allows the County Building Official to consider the cost approach in determining the value of the construction "consistent with local construction costs. The County has made no effort whatsoever to determine the value of the construction. That section goes to state, "where the cost approach is not accepted by the staff because it appears to be inconsistent with local construction costs, an applicant may request review by an independent third-party appraiser duly authorized by the County." The property owner was not only not given any value for the construction improvements, but he was not afforded the opportunity for third-party review that is authorized by the Code.
4. The post Hurricane Georges increase in value is attributed entirely to the alleged construction improvements with no consideration whatsoever for the substantial increase in property values that has occurred throughout the County.
5. The county is failed to take into consideration that the construction improvements alleged to be a "Substantial Improvement" in excess of 50% of the value of the home was in fact the demolition of a pre-existing below flood

residential apartment and its replacement with a dedicated storage area using flood resistant materials. The property owner's activity seems to be more consistent with the policies and purposes of our Code and Comprehensive Plan than is taken into consideration in the June 30 letter.

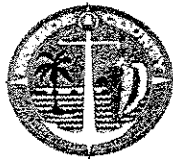
PART B:

***STAFF DETERMINATION BEING
APPEALED***

County of Monroe

305 289 2500
978 289 2500

Growth Management Division
2798 Overseas Highway
Suite 400
Marathon, Florida 33050
Voice: (305) 289-2500
FAX: (305) 289-2536



Board of County Commissioners
Mayor Dixie Spehar, Dist. 1
Mayor Pro Tem Charles "Sonny" McCoy, Dist. 3
Comm. George Neugent, Dist. 2
Comm. David P. Rice, Dist. 4
Comm. Murray Nelson, Dist. 5

June 30, 2005

Tracy M. Baker
15 Boulder Drive
Baypoint, FL 33040

RE: Permit application 05-1-3369: RE#00161250-0000000

Dear Mr. Baker:

This letter is to inform you that your application for a permit to remove drywall below base flood elevation and replace it with flood resistant material is denied. This letter follows a previous denial letter dated February 11, 2004, regarding permit application 04-1-306 for an after the fact lower enclosure flood repairs and removal of a damaged shed roof.

As you are aware, I have been providing information to your attorney Mr. Frank Greenman and you on a periodic basis since 2003, with regard to the issues of this home being substantially improved without benefit of permits. While the substantial improvements made to the structure immediately after Hurricane Georges are protected from code enforcement proceedings by the four-year statute of limitations, the building department cannot issue permits for a substantially improved building below base flood elevation unless it comes into compliance with the Florida Building Code and County Code.

The structure referenced above was built in 1958, before the current elevation requirements were in effect and is nonconforming to the floodplain elevation requirements of Section 9.5-317, Monroe County Code. It is subject to the substantial improvement regulations, more commonly known as the 50% rule, that apply to ground level structures built prior to the County's participation in the National Flood Insurance Program. Federal and state laws and the Monroe County

County of Monroe

floodplain regulations governing these structures require that improvements to ground level structures pre-existing prior to the County's participation be limited to less than 50% of the market value of the existing structure without being subject to the elevation requirements.

In my letter to Mr. Greenman, dated May 14, 2003, the following facts led to my determination that the structure was substantially improved after Hurricane Georges.

- (1. The 2003 Property Tax Card contained the following appraiser's notes: *"The SFR has been gutted, and is being rebuilt plus an addition. The sale was more or less a land purchase."* The Property Appraiser's building values for the structure in 1998 (pre Hurricane Georges) and 2002 were \$69,923 and \$144,998 respectively. 49.9 percent of \$69,923 yields a figure of \$34,891, which is the maximum value of improvement that would be allowed under the County's regulations to be considered a non-substantial improvement. Therefore, the 2002 building value of \$144,998, which was without benefit of any permits, is substantially beyond this threshold.
- (2. The 1997 property tax card and the 2003 property tax card showed different building layouts for the structure, including additions.
- (3. The 1997 and 2003 appraisals showed different interior layouts including additions. The Area Calculation Summary for the 1997 and 2003 appraisals had the gross living area (GLA1) at 1511.50 square feet and 1738.50 square feet respectively. The estimated market value in the 1997 appraisal was \$325,000 and \$525,000 in the 2003 appraisal with the depreciated building value in 2003 of 165,580.

The work in progress on the structure, which was stopped by code enforcement, is not subject to the statute of limitations regarding the improvements made over four-years ago. Mr. Greenman was advised by Ronda Norman, Director of Code Enforcement, that based on the substantial damage determination of the May 14, 2003 letter, the remedy to settle the code enforcement case is to bring that portion of the structure subject to the code enforcement proceedings, back to its original block wall construction. No after-the-fact or new permits can be issued to authorize the cited unlawful improvements, as the building has been determined to be substantially improved, unless the building is elevated to or above base flood

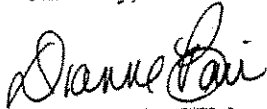
County of Monroe

elevation and brought into compliance with all applicable building and development codes.

You have the right to appeal this decision. I have enclosed an application for your convenience. An appeal must be filed within 30 working days of this decision and be accompanied by a non-refundable filing fee of \$250.00, a non-refundable newspaper advertising fee of \$245.00 for each newspaper (\$245.00 x 3, \$735.00) and a non-refundable notification fee of \$3.00 for each adjacent property owner. If you do not appeal this decision your application will be closed.

Your application will be placed on hold pending notification from you as to how you wish to proceed. If you have any questions, please do not hesitate to contact me at (305) 289-2518.

Sincerely,

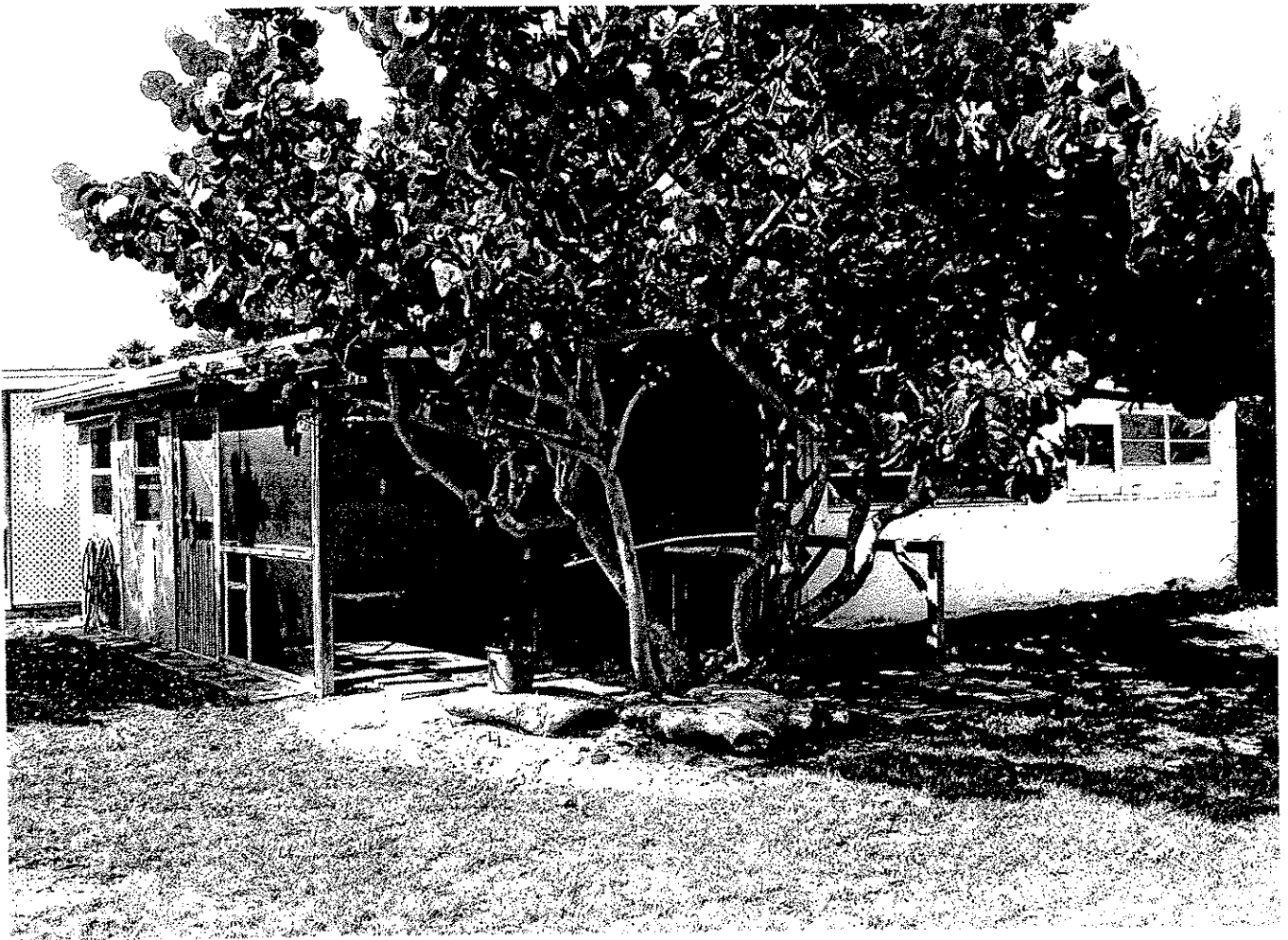


Dianne Bair, CFM
Special Projects Administrator
Growth Management Division

Cc: Permitting File
Ronda Norman, Director, Code Enforcement
Procraft of South Florida
PO Box 1964
Big Pine Key, FL 33043

PART C:

PHOTOS



PART C:

FEES AND RECEIPT

UU4936

DATE : Aug 15/2005
CHE # : 04936
AMOUNT: \$490.00
ACCOUNT: GENERAL - 2
PAID TO: Monroe County Planning Department
2798 Overseas Highway, Suite 410
Marathon
FL
33050-2227

Baker appeal - additional filing fee (2x newspaper advertisement)

CLIENT: 1812 - Tracy Baker, M. D.
MATTER: 05-156-fdg

ORIGINAL CHECK HAS A COLORED BACKGROUND PRINTED ON CHEMICAL RESISTIVE PAPER. SEE BACK FOR DETAILS.

TJB BANK OF THE KEYS
YOUR COMMUNITY BANK
KEY LARGO, FL 33037

004936

63-928/670
4

GREENMAN & MANZ, A PARTNERSHIP
OF PROFESSIONAL ASSOCIATIONS
5800 OVERSEAS HIGHWAY, SUITE 40
MARATHON, FLORIDA 33050
(305) 743-2361

Four Hundred Ninety *****
DATE Aug 15/2005
AMOUNT \$490.00

PAY TO THE ORDER OF
Monroe County Planning Department
2798 Overseas Highway, Suite 410
Marathon, FL 33050-2227

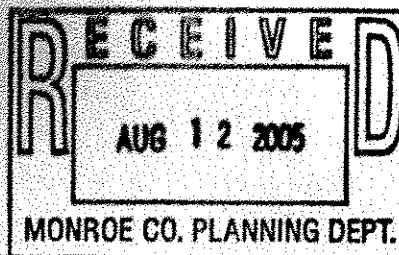
AUTHORIZED SIGNATURE

Baker appeal - additional filing fee (2x newspaper advertisement)

"004936" "057009280" 50701518206"

DATE : Aug 12/2005
CHK # : 3322
AMOUNT: \$350.00
ACCOUNT: TRUST - 3
PAID TO: Monroe County Planning Dept.

003322



Baker appeal

CLIENT: 1812 - Tracy Baker, M. D.
MATTER: 05-156-fdg

3322

ORIGINAL CHECK HAS A COLORED BACKGROUND PRINTED ON CHEMICAL REACTIVE PAPER - SEE BACK FOR DETAILS

GREENMAN & MANZ, A PARTNERSHIP
OF PROFESSIONAL ASSOCIATIONS, IOTA TRUST ACCOUNT
5800 OVERSEAS HIGHWAY, SUITE 40
MARATHON, FLORIDA 33050
(305) 743-2351

TIB BANK OF THE KEYS
YOUR COMMUNITY BANK
KEY LARGO, FL 33037

003322

63-928/670
4

Three Hundred Fifty ***** 00/100

DATE	AMOUNT
Aug 12/2005	\$350.00

PAY
TO THE Monroe County Planning Dept.
ORDER
OF

AUTHORIZED SIGNATURE

Baker appeal

⑈003322⑈ ⑆067009280⑆ 50701619006⑈

ORIGINAL CHECK HAS A COLORED BACKGROUND PRINTED ON CHEMICAL REACTIVE PAPER - SEE BACK FOR DETAILS

GREENMAN & MANZ, A PARTNERSHIP
OF PROFESSIONAL ASSOCIATIONS
5800 OVERSEAS HIGHWAY, SUITE 40
MARATHON, FLORIDA 33050
(305) 743-2351

TIB BANK OF THE KEYS
YOUR COMMUNITY BANK
KEY LARGO, FL 33037

004935

63-928/670
4

One Hundred Seventy Five ***** 00/100

DATE	AMOUNT
Aug 12/2005	\$175.00

PAY
TO THE Monroe County Planning Department
ORDER 2798 Overseas Highway, Suite 410
OF Marathon, FL 33050-2227

AUTHORIZED SIGNATURE

Baker appeal

⑈004935⑈ ⑆067009280⑆ 50701618206⑈